

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number Peter Susi Michaelson, Susi & Michaelson 7 West Figueroa Street, 2nd Floor Santa Barbara, CA 93101 Bar No. 62957 805-965-1011 805-965-7351	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: PETER CAPONE Debtor(s).	CASE NO.: 9:10-bk-10782-RR

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: June 15, 2010	Time: 10:00 a.m.
Location: 1415 State Street, Courtroom 201, Santa Barbara, CA	

Type of Sale: ☐ Public ☒ Private

Last date to file objections:

June 1, 2010Description of Property to be Sold: 1030 Hot Springs Road, Santa Barbara, California 93108Terms and Conditions of Sale: [SEE ATTACHED AND MOTION]Proposed Sale Price: \$9,000,000Overbid Procedure (If Any): [SEE ATTACHED]If property is to be sold free and clear of liens or other interests, list date, time and location of hearing: See above.

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

PETER SUSIMICHAELSON, SUSI & MICHAELSON7 West Figueroa Street, 2nd FloorSanta Barbara, CA 93101805-965-1011; 805-965-7351 (fax)Date: April 29, 2010

OVERBID PROCEDURES

Any party wishing to overbid shall deposit a Cashier's Check in the amount of \$270,000 with Debtor's counsel, Peter Susi, payable to Peter Capone, Debtor-in-Possession, at least 48 hours prior to the scheduled hearing on this motion.

The sale shall be for all cash and on the same terms as the proposed sale to Buyer as reflected on Exhibit C of Debtor's motion to sell real property.

First minimum overbid shall be \$9,500,000 or as otherwise may be fixed by the court at the hearing, with subsequent overbid intervals as fixed by the court.

Successful overbidders to open escrow within 3 business days following the hearing.

Overbidder's \$270,000 deposit shall be forfeited if overbidder fails to open escrow, or close purchase in timely manner, through no fault of seller.

In the event of a successful overbid, Bhutani shall be entitled to a refund at close of escrow of all out of pocket due diligence costs incurred to the date of the hearing on this motion in connection with his proposed purchase on terms set forth in the Purchase Agreement.

In re PETER CAPONE	CHAPTER: 11
Debtor(s).	CASE NO.: 9:10-bk-10782-RR

NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on a CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
 7 West Figueroa Street, Santa Barbara, CA 93101

A true and correct copy of the foregoing document described as NOTICE OF SALE OF ESTATE PROPERTY will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d), and **(b)** in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On April 29, 2010 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addressed indicated below:

☒ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

On _____ I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follow. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

April 29, 2010
 Date

Cheryl Niccoli
 Type Name

Cheryl Niccoli
 Signature

Notice of Sale of Estate Property

SERVICE LIST
Peter Capone
Chapter 11 Case No.: 9:10-bk-10782-RR

SERVED ELECTRONICALLY

Andrew K Alper aalper@frandzel.com, efiling@frandzel.com; ekidder@frandzel.com
William C Beall artyc@aol.com
James A Bishop jbishop@bishopfirm.com
Brian D Fittipaldi brian.fittipaldi@usdoj.gov
Karen L Grant kgrant@silcom.com
Jonathan Gura jon@msmlaw.com, cheryl@msmlaw.com
Franklyn S Michaelson kim@msmlaw.com
Steven M Lester sml@llalawfirm.com
Leo D Plotkin lplotkin@lsl-la.com, dsmall@lsl-la.com
Lee S Raphael cmartin@pprlaw.net
Joseph M. Sholder sholder@g-tlaw.com
Peter Susi peter@msmlaw.com
United States Trustee (ND) ustpreion16.nd.ecf@usdoj.gov